

August 28, 1997

**VIA UPS Next Day Air**

Docket Office  
California Public Utilities Commission  
505 Van Ness Avenue, Room 2001  
San Francisco, CA 94102

**Re: Docket R.94-04-031/I.94-04-032**

Dear Docket Clerk:

Enclosed for filing in the above-entitled matter are the original and five copies of the **COMMENTS OF THE CALIFORNIA ENERGY COMMISSION ON THE CONSUMER INFORMATION DATABASE WORKSHOP REPORT AND THE SUPPLEMENTAL REPORTS ON RETAIL SETTLEMENTS AND INFORMATION FLOWS**. Please return the extra copy in the enclosed, stamped, self-addressed envelope. Thank you for your attention to this matter.

Very truly yours,

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Enclosures

cc: ALJ John Wong  
R.94-04-031/I.94-04-032 service list

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's )  
Proposed Policies Governing Restructuring )  
California's Electric Services Industry and Reforming ) Rulemaking 94-04-031  
Regulation. )  
\_\_\_\_\_ )

Order Instituting Investigation on the Commission's )  
Proposed Policies Governing Restructuring ) Investigation 94-04-032  
California's Electric Services Industry and Reforming )  
Regulation. )  
\_\_\_\_\_ )

**COMMENTS OF THE CALIFORNIA ENERGY COMMISSION ON THE CONSUMER  
INFORMATION DATABASE WORKSHOP REPORT AND THE SUPPLEMENTAL  
REPORTS ON RETAIL SETTLEMENTS AND INFORMATION FLOWS**

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## **I. INTRODUCTION**

These comments of the California Energy Commission (CEC) address the Customer Information Database Workshop Report (Section II) and the three Retail Settlements and Information Flow (RSIF) Supplemental Reports (Section III), which were filed with the California Public Utilities Commission (CPUC) on August 15, 1997. Section IV of these comments summarizes the key issues requiring expedited CPUC action as part of its proposed mid-September direct access decision. Section V provides the CEC's recommendations for the subsequent collaborative implementation activities needed to bring the retail elements of the restructured industry into full fruition.

## **II. CUSTOMER INFORMATION DATABASE WORKSHOP REPORT**

### ***A. Opt-In Confidential Database Proposal***

The Customer Information Database Report (CIDR) does not fully reflect the proposals of non-utility workshop participants. In particular, the report's description of the CEC Staff proposal for an Opt-In Confidential Database does not adequately convey the rationale for, or the details of, the CEC Staff proposal. Accordingly, it is included as Attachment I to these comments. The CEC endorses the CEC Staff proposal and offers the following additional points regarding the opt-in confidential database proposal:

1. Creating an opt-in confidential database appears to be necessary to satisfy the requirement of the direct access decision, D.97-05-040 (p. 74), that a customer be able to provide its information to all Energy Services Providers (ESPs).
2. Access by market participants to customer marketing data, for consenting customers, is necessary to mitigate the utility distribution company (UDC) marketing advantage noted in the preferred policy decision, D. 95-12-063, and to

comply with Ordering Paragraph 20 of that decision. The proposals offered by the UDCs in the CIDR are necessary, but not sufficient to create an informationally-level playing field for all competitors in the generation market.

3. If the opt-in procedure is linked with the Consumer Education Program (CEP), the impact of the opt-in database on AB 1890, § 376 costs may be substantially reduced. (Whether the present proposal is adopted or not, the CEC urges the CPUC to require the CEP to educate consumers about their rights regarding their access, and their control of access by others, to their own confidential usage information.)
4. The opportunity for consumers to identify themselves to the market as interested "early adopters" can be a valuable stimulus to small-customer participation in the early stage of the new market structure, and can provide targeted marketing opportunities for emergent ESPs that facilitate their market entry.
5. The opt-in mechanism can easily allow customers to specify marketing preferences, such as interest in renewables, or a desire not to be contacted by telephone (which ties in nicely with the "do not call" list required by recently enacted SB 477).
6. The UDCs' estimates of the cost of implementing this proposal ignore offsetting savings and benefits, which may be significant. For example, the transfer of customer usage history in response to a direct access service request (DASR) would be unnecessary for all customers who opt in to the database, and the level of general requests for those "exploring" their options could also be reduced.

### ***B. Non-Confidential Database Proposal***

The CIDR proposes safeguards for concealing the identify of customers included in the non-confidential database (NCDB). These safeguards by design constrain the level of

detail available to interested parties. The CEC is concerned that the proposed safeguards are based on simplistic rules of thumb rather than on established methodologies for concealing individual identities in such data releases. As a result, the usefulness of the NCDB may be severely reduced by excessive aggregation of location (zip code) and Standard Industrial Classification (SIC) identifiers, which brings into question the value of such a database in helping to establish a level playing field and serving the needs of all market competitors. Moreover, because the proposed safeguards are not based on expert guidance, they may not even be effective in achieving their intended purpose.

Two main sources of disclosure risk are associated with the release of customer usage data in the NCDB. The first is the existence of high visibility records due to unusual usage patterns or especially high or low usage. This applies to both residential and nonresidential customers. The proposed zip code, SIC, and 15/15<sup>1</sup> rules for small commercial customers do not necessarily mask these unusual patterns. However, there are established techniques for decreasing the visibility of such records without unnecessarily decreasing the information value. These include top- and bottom-coding variables, adding noise and blurring, among others. These techniques should be considered.

The second main source of disclosure risk is the possibility of matching billing records with external files. This could occur when identifiers in the released database can be linked uniquely with the same identifiers on other files. This risk should also be investigated and appropriate non-disclosure techniques should be applied.

The CEC believes that the proposed non-disclosure rules can readily be improved upon to ensure greater value in the NCDB while providing greater protection of customer confidentiality. To this end, the CEC recommends that the CPUC order a one-day

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<sup>1</sup> The 15/15 rule, proposed by the California Manufacturers Association, (CMA), requires each customer category to include at least 15 customers where each customer's load must be less than 15 percent of the total aggregation of the category. CIDR at p. 8.

workshop to be led by a federal Census Bureau expert or other expert on statistical disclosure limitation techniques. This workshop should occur within the next few weeks. Its objectives would be to: (1) arrive at the most appropriate non-disclosure rules for the NCDB, and (2) raise the level of knowledge of disclosure limitation techniques for all parties. Using the guidance derived from this workshop, the customer usage data to be released in the NCDB should be examined for the existence of high visibility records and for linkage possibilities. Then, appropriate techniques should be used to decrease the risk of disclosure for affected records.

### ***C. Access to Survey Data/Load Research Data***

Section I. B. 4. of the CIDR states the UDCs' opposition to the release to the marketplace of survey and load research data they have gathered at ratepayer expense to support demand side management, forecasting, and rate design. They cite confidentiality requirements and processing expense as the reasons for their opposition, and recommend that future consideration of this issue be referred to the California Board for Energy Efficiency (CBEE).

The CEC acknowledges the legitimacy of UDC concerns about confidentiality and processing expense. At the same time, the information gathered in surveys and load research projects may be of great value to market participants and to the customers who have participated in these surveys. Moreover, as noted in Section II. A. 2. above, the UDCs' proposals do not adequately mitigate the UDC marketing advantage noted by the CPUC in D. 95-12-063. The CEC believes, therefore, that the value of the data outweighs the UDCs' concerns, but agrees that these concerns should be addressed.

The CEC urges the CPUC to affirm in its decision that survey and load research data gathered at ratepayer expense is not a utility asset and that it should be made available to the industry for the benefit of the new energy marketplace, with appropriate provisions for confidentiality and recovery of utility data processing costs. To address



the practical issues of releasing the data, the CPUC should direct the UDCs to collaborate with the staff of the CPUC and the CEC in developing a proposal. The proposal should consider both the release of the data on a confidential basis per the request of an individual customer, and analytic uses of the entire body of data performing analyses on the data that are useful to market participants while concealing the identities of customers. Expert assistance in concealing customer identity could be obtained by coordinating this effort with the workshop recommended in the previous section.

### **III. RSIF SUPPLEMENTAL REPORTS**

The Retail Settlement and Information Flow (RSIF) report served a different purpose than that of the four other implementation topics identified in D.97-05-040. Rather than document differences among the parties, the report served to educate participants about the complexities of information flows needed for the functioning of the restructuring electricity marketplace.

Section I.D of the RSIF Executive Summary and Appendix VII.G document a series of follow-up activities classified by priority. The three supplemental reports filed August 15, 1997, make some progress toward resolving three of the four high priority activities identified in the RSIF report. The CEC offers comments on these three reports below. The CEC strongly supports this collaborative effort and will continue to provide Staff resources for the further efforts the parties have identified.

#### ***A. Retail Data Quality and Integrity***

The Retail Data Quality and Integrity (DQI) report emphasizes the message of the July 25, 1997 RSIF report that data quality and integrity must be ensured in the new industry structure being implemented in California. The decentralized set of regulated entities and commercial businesses that must jointly use customer data to determine

the physical quantity of services obtained by an end-use customer and the resulting financial obligations are dependent upon accurate, timely energy consumption data collected from the meter, reliable processing of this metered data, and subsequent information exchanges among entities. The consequences of the unbundling decision, D.97-05-039, to permit competitive supply of certain revenue cycle services accentuates the need for confidence in data quality and integrity.

The CEC agrees with the DQI report that lack of appropriate controls on data collection, processing, and information exchange threaten the industry structure developed in D.95-12-063 and the subsequent implementation efforts by the parties.

The DQI report (p. 2) makes three specific recommendations for CPUC action: (1) sanction a continuing collaborative effort to develop proposals to ensure data quality and integrity; (2) require market participants to maintain auditable records for three years to allow for subsequent audits if necessary; and (3) initiate discussions with FERC and/or other agencies concerning retail information data collection and information exchange. The CEC supports these recommendations and urges timely CPUC action.

The DQI report (pp. 6-7) poses two models for the additional oversight needed to develop confidence in data quality and integrity — regulation and contractual arrangements. The CEC believes that elements of both are needed. Contracts may well be the basis for the specific requirements between parties concerning data collection, processing, and information exchange, but there must be an underlying industry framework subject to an oversight authority. Electricity, natural gas, and water industries are different from other “commodity” industries in that the measurement of usage occurs with a meter located on the premises of the consumer, not the supplier, and that the customer determines the amount of usage, not the supplier. Electricity is further different as a result of the physical properties of interconnected grid systems, where the usage of each customer has impact on other customers.

## ***B. UDC-ESP Communications***

The UDC-ESP communications report describes further progress on the complex subjects of data exchange between ESPs (or their agents) and UDCs for metering, billing, customer service, and remittance data exchanges. These issues were discussed in the RSIF report, but not pursued to the level of detail necessary to build computer systems. The immediate need to pursue these details was identified in the Executive Summary of the RSIF report. This led to extensive discussions among parties which resulted in this supplemental report documenting some progress in clarifying details and narrowing the issues under dispute. The CEC offers comments on three areas of concern, PG&E's "rate-ready" billing service offered to ESPs, ESP consolidated billing, and data exchange formats.

PG&E continues to maintain that it is able to offer only the "rate-ready" billing option to ESPs as of January 1, 1998. The CEC is concerned that under the rate-ready arrangement, PG&E becomes privy to the pricing structure of all the ESPs, thus putting PG&E in a position to exercise retail market power by directing its own marketing efforts to retain customers on bundled or virtual direct access service, or disclosing information to its competitive energy service affiliate. The CEC prefers that PG&E also offer the "lump sum" option to ESPs as soon as possible. In the meantime, the CPUC should classify rate ready information as confidential and subject PG&E and its employees to all legally permissible sanctions for violations of confidential information protection provisions.

For ESP consolidated billing, the report notes (p. 18) that the requirements of ESPs to print informational messages on the customer bill need to be clarified. With the passage of SB 477, there are other aspects of ESP consolidated billing that must be reviewed to determine whether EPSs are subject to the requirements of Cal. Pub. Util. Code §§ 394.4(e) and 394.5 (a)(1)(C). The CEC recommends that a workshop be held as soon as possible to clarify the billing format requirements of SB 477 applicable to ESPs and UDCs. This will ensure that any computer software and other processing

that may be required as a result of SB 477 will have adequate lead time to be operational by January 1, 1998.

The major issue raised during discussions between ESPs and UDCs concerns the use of electronic communication protocols. ESPs and SDG&E appear to desire to use standard electronic data interchange (EDI) formats for all customer data exchanges beginning on January 1, 1998, while PG&E maintains that this goal is overly ambitious. The CEC supports the use of EDI as the data interchange standard, but not at the cost of threatening the January 1, 1998 startup or other critical software development. Otherwise, a common format and EDI as the interchange format should be implemented as quickly as possible.

### **C. *Distribution Loss Factors***

The Distribution Loss Factor (DLF) report provides a major advance compared to the discussion of the issue in the RSIF report. Although the CEC generally supports the report and its calls for further developmental efforts, we have several specific concerns.

The DLF report argues for distinguishing between loss factors based on the voltage level at which a customer takes services, but fails to describe how having a choice of two or more loss factors will lead to a specific customer being assigned to a specific loss factor. UDCs need to develop and implement a method for linking each and every customer account unambiguously to a specific loss factor, perhaps using a tariff identifier. This step is essential to allow the preparation of settlement-ready data by the ESP, or its agents, as required by the ISO Tariff. Since some entities other than UDCs will be performing this activity, the designation of each customer's loss factor indicator needs to be communicated as part of customer data exchanges which take place when each DASR is processed, and perhaps at other points when the distribution system's loss characteristics are altered.

The DLF report does not discuss how longer term distribution loss research will be conducted. This is especially serious for any UDC using the total loss method rather than engineering loss estimates, since the total loss method is susceptible to corruption by unaccounted-for-energy (UFE). Currently, only SDG&E proposes to use the total loss method. Should SDG&E continue to use this method, customers may receive loss allocations that are contaminated by energy theft and other accounting problems. The CPUC should direct utilities to provide more detail about their near term approach and long-term plan for improving DLF methods.

More immediately, the CPUC must develop its own initial review/approval process for the first round of utility DLF calculations, which the DLF report estimates will be ready in October. The CPUC must devise a process which allows an opportunity for public

review, but concludes with its adoption of specific values (or the methodology that unambiguously results in specific values) in a timely manner. This process must:

1. permit computation and posting of hourly loss factors for use by ESPs, SCs, and other parties; and
2. formally communicate to the ISO that such loss factors have been approved by the CPUC as the local regulatory authority, as called for in the ISO Tariff.

#### **IV. SUMMARY OF ISSUES REQUIRING EXPEDITED CPUC DECISIONS**

In this section the CEC provides a summary of the issues requiring expedited CPUC decisions, as identified in all five of the direct access implementation workshops ordered by D.97-05-040.

##### ***A. Load Profiling***

First, the CPUC should direct interested parties to begin the development of “permanent” load profiling methodologies. Permanent methodologies would embody: (1) finer segmentation of customer groups; (2) statistical sampling and installation of telemetry to permit rapid updates; and (3) consideration of statistical data processing to maximize useful information for customer subgroups. In prior CEC comments we emphasized the need to evaluate “sophisticated” load profiling in the year 2000 review, rather than the primitive load research class samples available now. To accomplish this requires developing these improved methods, deploying them in the field and monitoring their operation. Collaborative development of the permanent methodology should therefore begin now, for implementation as soon as possible.

Second, the CPUC should approve, in principle, that ESPs will be allowed to develop their own customer samples and representative load profiles under regulatory supervision. This appears to be necessary to ensure that D.97-05-040, conclusion of law No.33 can be satisfied. Development such methodologies should be included in the same collaborative effort discussed above.

## ***B. Direct Access Implementation Plans (DAIP)***

### **1. The Competitive Role of the UDC**

The CPUC must give guidance to market participants regarding the ultimate role of the UDC in the restructured marketplace. Some parties in some contexts portray the UDC as a pure common carrier distribution wires service, which will not be a competitor in the market for energy services either during the transition period or afterwards. In this view, competitive activities of the utility are performed exclusively by an unregulated affiliate and not by the regulated monopoly. Other parties, or often the same parties in other contexts, portray the UDC as a full competitor in the energy service market. (Indeed, recent advertising by some of the UDCs makes it clear that they wish to retain as many "default" customers as possible, even though they claim to be indifferent to the customers' choice of energy provider.)

Lacking clear CPUC guidance on this issue, there continues to be a level of uncertainty which makes it very difficult to evaluate whether the agreements and operating arrangements proposed in the DAIP, and in related proceedings such as the direct access tariffs, are truly fair to all market participants and supportive of meaningful consumer choice. In many instances, arrangements that might be acceptable for dealing with a non-competitive common carrier UDC distribution wires service become problematic if that UDC is also now competing to provide energy services or is positioning itself to compete once CTC costs have been recovered. The CEC urges the

CPUC to take a clear position on this fundamental issue in its September direct access decision.

## **2. Phase-out of Temporary Compromise Measures**

Because of the necessity for numerous compromises and expediciencies to meet a January 1, 1998 start date, the CEC recommended in its comments on the DAIP, and reiterates here, that the CPUC adopt a multi-phase process to phase-out these temporary measures in favor of complete implementation of full direct access as soon as possible after January 1, 1998.

### ***C. Meter Data and Communication Standards (MDCS)***

The CEC noted its major concerns with both the UDC-prepared report on MDCS issues and the framework in which the CPUC is considering metering system concerns. Here we reiterate the following concerns and recommendations:

1. the CPUC must specify the functionality it expects metering and data communication systems to achieve. For these systems there are at least three aspects that must be clarified: (1) the need to convey real time price signals to consumers, (2) the capability to acquire and transmit new measurements (such as kilovolt-ampere/hour) that will support more sophisticated distribution tariffs, and (3) distribution system operation capabilities such as outage detection, remote turn on/off, etc.;
2. D.97-08-056 requires utilities to provide metering systems, to customers selecting a virtual direct access (VDA) tariff, which communicate real-time pricing (RTP) signals to the consumer. The CEC recommends that all metering and communication systems have a two-way capability to enable this RTP signal functionality, not just those meters installed by utilities for VDA customers;



3. the CEC strongly recommends further investigation of the use of KVAh (kilovolt-ampere/hour) as the required primary recorded measurement for the new interval data recording meters (with other recorded measurements as required by tariff). Similarly, the CPUC should also investigate whether all of the recent concern with distribution system outages merits outage detection and other distribution system operation capabilities for metering and communication systems. Requirements for revenue cycle services should not be the only consideration in the analysis of communication system functionality;
4. the record provided in the MDCS report does not provide a sufficient factual basis for selecting specific metering or data communication system standards. Therefore, the CPUC should not approve any standards at this time. Nevertheless, the CEC urges the CPUC to announce its intention to require appropriate elements of national standards that are consistent with forthcoming CPUC decisions regarding California metering and data communication system functionality;
5. installation of metering and data communication systems that meet the requirements of UDC-ESP service agreements should be allowed to commence with the understanding, however, that the equipment and/or system may need to be retrofitted or replaced to conform to the standards ultimately adopted;
6. the CPUC should direct stakeholders to organize and conduct a working group process to review possible national standards and to recommend appropriate elements as mandatory requirements for California. All of the commenters on the MDCS report have made a comparable recommendation. Activity should be scheduled to begin within the next couple of months with recommendations due July 1, 1998, to allow for CPUC review and adoption and implementation by January

1, 1999. This timeframe preserves the basic direction in D.97-05-039 to permit non-utility meter installation for customers less than 20 kW on that date.

#### ***D. Retail Settlements and Information Flow***

The CEC's concerns with CPUC action on RSIF activities are described in detail in sections III and V of these comments. In summary, we recommend that the CPUC act promptly to:

1. sanction a stakeholder process to develop an adequate Data Quality and Integrity proposal;
2. approve in principle a requirement for market participants to maintain auditable records, and authorize the same stakeholder process as above to propose the details of this requirement;
3. initiate discussions with FERC, and any other relevant regulatory authorities, and the ISO regarding the need for cooperative market oversight to ensure Data Quality and Integrity;
4. approve EDI standards for all information exchanges between UDCs and other parties as required to perform direct access transactions, with rapid migration to EDI in those instances where EDI is not feasible by January 1, 1998;
5. where EDI will not be feasible by January 1, 1998, require UDCs to work closely with parties to minimize the cost impact of having to develop interim systems for January 1, 1998 and then replace those systems soon after;
6. require PG&E to develop a "bill-ready" format as soon as possible and to treat "rate ready" information as confidential;

7. convene a workshop to clarify and specify the details of implementing the billing format provisions of SB 477;
8. specify a process whereby the CPUC will approve initial UDC proposals for distribution-loss calculations, which is expedient but allows for public review of the proposals; and
9. direct the UDCs to develop a proposal for continuing distribution-loss research, for the purpose of improving upon the calculation methods to be used on January 1, 1998.

#### ***E. Customer Information Database***

The CEC's concerns regarding customer information database issues are described in detail in section II of these comments. In summary, we recommend expedited CPUC decisions to:

1. order a one-day workshop led by a federal Census Bureau witness or other expert on statistical disclosure limitation techniques, to develop the most appropriate rules for protecting customer identity in the NCDB while ensuring high usefulness of that database;
2. require the UDCs to work with interested parties to develop a specific proposal for creating an opt-in confidential database, as we have proposed;
3. require the UDCs and other entities involved with the CPUC's Consumer Education Program to educate consumers about how to exercise their rights to obtain, to authorize access to, and to restrict access by other parties to their confidential customer information;

4. affirm that survey and load research data gathered at ratepayer expense is the property of ratepayers, and that it should be made available to the industry for the benefit of the new energy marketplace, with appropriate provisions for confidentiality and recovery of processing costs; and,
5. direct the UDCs to collaborate with staff of the CPUC and the CEC to develop a practical proposal for making the results of survey and load research data to the restructured energy service marketplace.

## **V. RECOMMENDATIONS REGARDING SUBSEQUENT COLLABORATIVE IMPLEMENTATION ACTIVITIES**

With the submission of the last of the Direct Access Implementation Workshop Reports and the three RSIF Supplements, there remain a number of topics requiring additional stakeholder efforts, which have a number of complications. Some of the topics cross jurisdictional lines (between the CPUC or other local regulatory authority and the FERC). Some involve interactions with UDC systems and will require regulatory oversight, whereas others are essentially market activities that require some degree of coordination only. Section V.A. lists the topics that will be addressed by stakeholders in the coming weeks and months, and Section V.B. offers the CEC's recommendation for giving greater control of collaborative reports to the stakeholders rather than the UDCs.

### ***A. Summary of Topics to be Addressed by Stakeholder Groups***

The following activities have been identified as subjects for continuing stakeholder working group efforts:

1. perform transactional analysis of new industry structure to identify areas where business controls or oversight mechanisms are desired (RSIF Supplement on Data Integrity);
2. create an "Operations Group" to routinely review and alter operational policies such as those outlined in these comments (RSIF Supplement on ESP-UDC Communications);
3. create a standard for UDC-ESP data exchanges based on national standards (RSIF Supplement on ESP-UDC Communications);
4. develop enhancement of distribution-loss factor methodology by January 1, 1999 (RSIF Supplement on DLF);
5. develop standards for competitive metering for small customers (Unbundling decision);
6. investigate secondary uses of customer data (July 25, 1997 RSIF Report);
7. adopt dispute resolution mechanism (July 25, 1997 RSIF Report);
8. adopt universal identifiers (July 25, 1997 RSIF Report);
9. develop load profiling methodologies (Load Profiling Workshop Report); and
10. develop standard UDC-ESP Service Agreements (Initiative of the Direct Access Alliance, a voluntary stakeholder group).

At least two of these topics (items 4, 9) are identified and discussed in the ISO Tariff as critical for proper settlement at the ISO level, hence will require coordination with the ISO. At least three others (items 3, 5, 10) are identified in earlier CPUC decisions and, hence, the proposals will clearly require CPUC approval. Another area crosses the jurisdictional boundaries of the CPUC and the FERC (item 1) and will require cooperative federalism. Finally, other areas may be resolved among the parties themselves, with CPUC decisions required only in case of a deadlock (items 2, 6,7,8).

### ***B. Role of the UDCs in Working Group Reports***

As we noted in our comments on the CIDR (Sec. II above) and in our separate filing on the RSIF and MDCS Workshop Reports, placing the responsibility for issuing reports on the UDCs has resulted, in some instances, in reports that do not adequately reflect the complexity of the issues, the proposals of non-utility parties, and/or the degree of disagreement on particular issues. Although the continuing participation of the UDCs is essential, given their role in the marketplace and their expertise on a variety of issues, the process needs to be improved to ensure more comprehensive reports that better reflect the parties' views.

We recommend, therefore, that the CPUC:

1. formally approve continuing stakeholder working group efforts to develop proposed solutions in the areas listed in Section V.A.;
2. direct the UDCs to fully participate as equal members of these group efforts;
3. direct the UDCs to continue their material support of these efforts and their related filings, with costs to be recovered as appropriate per CPUC approval; and

4. direct each working group to decide for itself which of its participants shall be responsible for drafting, revising, and submitting that group's report, rather than leaving this responsibility to the UDCs.

Date: August 28, 1997

Respectfully submitted

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# **ATTACHMENT I**

## **Customer Information Database Workshop**

### **California Energy Commission Staff Proposal**

**July 16, 1997**

#### **I. Introduction**

##### **A. Summary of prior Commission decisions and parties' recommendations**

In Decision D. 95-12-063 the Commission recognized that "a utility has access to considerable information about its customers" which creates "a major marketing advantage that could allow it to target and sign up preferred customers before its competitors can" [D. 95-12-063, pp. 71, 108]. To mitigate that advantage the Commission ordered that "Customer-specific information necessary for the distribution functions of the utility shall be made available to all competitors in the generation sector, on terms that are fair to all competitors" [Ordering paragraph 20, p. 224].

The Decision also addresses the need to prevent potential misuse of customer information. It states: "All generation providers, including the monopoly utility, shall obtain a customer's consent before accessing any proprietary information about the customer" [Ordering paragraph 20, p. 224-5]. In the body of the Decision the Commission makes it clear that "customer confidentiality concerns" are the driving motivation behind the requirement to obtain customer consent [p. 108].

Over the 18 months following D. 95-12-063, particularly in the August 1996 report of the Direct Access Working Group (DAWG Report) and the comments and reply comments on that report, parties identified four categories of customer-specific information which, with appropriate customer protection provisions, should be released by the utilities to competitive energy service providers (ESPs) to help to create an "informationally-level" playing field. Specifically these four are:

[1] Database of non-personal customer-specific information; i.e., at least twelve months usage history for all customers, with customer identification removed. This database would include such data as geographic location, SIC code, rate class, etc., to make it useful for analysis by ESPs. As long as customers are not identifiable from the data, there would be no confidentiality concerns, so no consent would be required, and all customers in the utilities' service areas (except perhaps those large customers whose identity could not be masked) could be included in the database. The purpose of this database would be to enable ESPs to perform market analyses on the full customer base.



[2] Database of personal customer-specific information; i.e., the contents of database [1], plus customer identification, plus other energy-related information contained in the utilities' customer records, for all customers who consent to be included in the database. (A customer's credit or payment history would not be included.) This data release would require a solicitation by the utilities of customer willingness to participate in the data release, and would therefore need to be executed on a longer time frame than database [1]. The purpose of this database would be to allow customers to signal their interest in direct access and express some marketing or service preferences in advance of direct solicitation, and to identify a field of "early-adopters" for ESPs.

[3] Research studies, load analyses, surveys, etc., that have been conducted by the utilities as part of their regulated activities at ratepayer expense. Release of these materials would ensure that customers were not identified or identifiable, and would therefore not require customer consent.

[4] Release of customer-specific records on a case-by-case basis, per explicit customer request.

This proposal focuses on item [2].

## **B. Description of available data**

Not discussed in this proposal.

## **C. Principles for data release**

1. Creating an informationally-level playing field. The purpose of allowing access to utility customer data is to mitigate the competitive advantage enjoyed by the regulated utilities and their unregulated affiliates by virtue of their having access to extensive customer data accumulated over the utilities' long history as regulated monopolies. While unregulated affiliates should in principle not have access to this data, many parties believe that the separation between utilities and their affiliates has not yet become adequate to prevent such access. Because of the many difficulties in trying to prevent sharing of information between utilities and their affiliates during the transition period to the new market structure, CEC Staff believe that simply limiting access to customer data by all parties cannot even remotely approximate the "equal access" order of D. 95-12-063. Therefore the data access provisions enacted in this proceeding must be adequate to meaningfully offset the utility advantages noted in that Decision.

2. Customer protection. For database [1] above, customer protection consists of ensuring that customers are not identifiable from the data released. For certain customers this may require that they be excluded from the database. For residential and small commercial customers this should not be a problem. For database [2], customer protection has two elements. First is a procedure for obtaining customer consent to be included in the database, which is discussed in greater detail in Section III.B. Second is a requirement that recipients of the database formally

agree to use the data only to further their marketing of energy services and not to disseminate any customer-specific information to other parties, also discussed in Section III.B.

3. Fair compensation of utility costs in providing data access. The customer information subject to release has been accumulated as part of the normal regulated activity of the utilities, and the costs have been recovered in utility rates. Utilities should therefore be compensated only for the additional costs incurred in preparing databases [1] and [2] above, making them available to eligible parties, and obtaining customer consent where required. These costs may be recovered via charges paid by the recipients of the databases, unless those charges are so large as to undermine the intent of "equal access," in which case the costs may be covered by the regulated utility transition cost recovery mechanisms.

## **II. Non-personal database**

Not discussed in this proposal.

## **III. Release of personal customer information via an opt-in database**

Because of the requirement to obtain informed customer consent via a mass solicitation effort, this data release must require a longer time frame than the data release of Section II. CEC Staff believe, nevertheless, that competitive ESPs will find this data release extremely valuable for creating a competitive marketplace, even though the database may not be available until late 1997 or early 1998. Because of the obvious effort and expense involved, CEC Staff request parties to comment on the importance of this data release for their marketing efforts and the viability of healthy competition for retail energy services.

### **A. Scope of data to be released**

At a minimum a customer record should include the most recent 12 months usage history in the form used for computing the utility bill (i.e., monthly total kWh, time-of-use totals, etc., as available), plus: customer name, service address, billing address, utility account number, rate category, SIC code. Customers participating in this database, as self-identified early adopters, may also wish to allow ESPs to have access to other energy-related information in their utility records, such as energy audits, DSM program participation, etc. The Commission should direct the utilities to describe the effort required to incorporate such information.

### **B. Customer protection**

Customer protection has two dimensions: customer consent to be included in the database, and restrictions on the uses of the information by recipients of the database. In addition, customer consent should be obtained based on an unbiased presentation of what their consent means and a

reasonably extensive opportunity to respond, in order to obtain a genuinely useful level of customer participation in the data release.

## **1. Obtaining customer consent**

Customer consent should be obtained through the use of bill inserts with accompanying reply postcards. The bill insert should inform customers in an unbiased fashion of the opportunity to be included in a database to be released to CPUC-registered ESPs. It should describe the data to be released and the restrictions placed on ESPs' uses of the data. The reply postcard should contain a simple statement of customer authorization to be included in the database, as well as boxes to check if the customer wishes to express marketing or service preferences (no telephone marketing, interest in renewable energy, etc.).

## **2. Obtaining a useful level of customer participation**

Customer response to this effort will depend critically on how it is presented and how easy it is for the customer to get further information and to participate. CEC Staff offer the following suggestions for enhancing customer participation.

- a. Repeated customer notification. Once the decision is made and the program is ready to begin, the bill insert and reply postcard should be sent to customers every month or every other month for a period of eight to ten months.
- b. Repeated database releases. The program should aim to produce a first database release early in 1998 and a second release six months later. This will give customers a second opportunity to participate in the data release as the market evolves during the early months of the new structure.
- c. Coordination with the EREG Consumer Education Program (CEP). Customer protection will be one of the topics within the scope of the CEP. Customers should be educated about their rights to access their own customer records and to either authorize or limit access to those records by other parties. Regardless of whether the CPUC orders the data release described in this section, customers will be educated about the channels and mechanisms for reporting and resolving complaints about marketing or other business practices. It makes sense, therefore, to coordinate the development of a bill insert dealing with a data release with the CEP effort, thus to place the data release within the context of market competition, and to inform customers about their rights regarding their customer records and the protections against abuses of confidentiality.

## **3. Restrictions on uses of customer information**

ESPs or other parties that receive the database described here from the utilities should be required to sign an agreement to use the data for their own marketing purposes only and not to disseminate the information to other parties without obtaining additional customer consent. Consumer protection mechanisms should be equipped to handle alleged violations of these agreements.

### **C. Who may have access**

Access should at least be open to CPUC-registered ESPs. CEC Staff request participants in this workshop to comment on whether access should be extended to providers of non-commodity energy services, or perhaps to any party willing to sign the "appropriate use" agreement noted above.

### **D. Mechanism and timing of the data release**

The database described in this section should be released in a standard electronic format via diskette or secure telecommunications protocol.

Due to the effort involved in educating customers about the data release and obtaining their consent to be included, this database should be released twice: once as early as is feasible in 1998 and a second time about six months later.

### **E. Recovery of costs**

Utilities should be assured of recovering all costs associated with obtaining customer consent, preparing the database for release and disseminating it to eligible parties. These costs may be recovered via a charge paid by recipients of the data, unless that charge appears to be so high as to undermine the objective of equal access to customer information. In the latter case, the CPUC should authorize cost recovery via the regulated mechanisms for dealing with transition costs.